

Bill No. 32-35 (COR)

As amended by the Committee on Economic Development,
Agriculture, Maritime Transportation, Power
and Energy Utilities, and Emergency Response;
and further amended on the Floor.

*

Introduced by:

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AN ACT TO ADD A NEW CHAPTER 8 TO TITLE 11 OF GUAM CODE ANNOTATED, RELATIVE TO REGULATING THE USE, PRODUCTION, SALE, AND TAXATION OF MARIJUANA, TO BE KNOWN AS THE "GUAM CANNABIS INDUSTRY ACT OF 2019"; TO ADD A NEW CHAPTER 9 TO TITLE 11 OF GUAM CODE ANNOTATED, RELATIVE TO CREATING THE CANNABIS CONTROL BOARD; TO REPEAL §§ (e)(23) AND (e)(31) OF APPENDIX A, CHAPTER 67, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO DECLASSIFYING MARIJUANA AS A SCHEDULE 1 CONTROLLED SUBSTANCE; TO AMEND §§ 67.401.2(b), 67.401.4(f), (h), AND (j), 67.401.5, 67.401.6, 67.411(b) AND 67.412(a), AND REPEAL § 67.401.4(k), ALL OF ARTICLE 4, CHAPTER 67, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO REDEFINING REFERENCES TO MARIJUANA IN THE GUAM UNIFORM CONTROLLED SUBSTANCES ACT; AND TO ADD A NEW § 70.44.4 TO ARTICLE 1 OF CHAPTER 70, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO POSSESSION OF

CANNABIS BY PERSONS UNDER TWENTY-ONE (21) YEARS OF AGE.

11 BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan finds*

3 that in the interest of enhancing revenue for public purposes with the creation of a
4 new industry, enhancing individual freedom, and promoting the efficient use of law
5 enforcement resources, the use of cannabis should be legal for persons twenty-one
6 (21) years of age or older, and the production and sale of cannabis should be
7 regulated for public health, welfare, safety, and taxation purposes.

8 It is the intent of *I Liheslaturan Guåhan* that the use, sale, and production of
9 cannabis should be regulated so that:

(a) individuals will have to show proof of age before purchasing cannabis;

1 **Section 2.** A new Chapter 8 is hereby *added* to Title 11 of Guam Code

2 Annotated, to read:

3 **“CHAPTER 8**

4 **GUAM CANNABIS INDUSTRY ACT**

- 5 § 8101. Title.
- 6 § 8102. Definitions.
- 7 § 8103. Personal Use of Cannabis.
- 8 § 8104. Restrictions on Personal Cultivation, Penalty.
- 9 § 8105. Public Consumption Banned, Penalty.
- 10 § 8106. False Identification, Penalty.
- 11 § 8107. Cannabis Accessories Authorized.
- 12 § 8108. Lawful Operation of Cannabis-Related Facilities.
- 13 § 8109. Cannabis Control Board.
- 14 § 8110. Rulemaking.
- 15 § 8111. Cannabis Establishment Registrations.
- 16 § 8112. Employers, Driving, Minors, and Control of Property.
- 17 § 8113. Excise Tax on Cannabis.
- 18 § 8114. Monthly Statements and Payments.
- 19 § 8115. Federal Law, Applicability.
- 20 § 8116. Prior Duties, Penalties, and Proceedings.
- 21 § 8117. Contracts.
- 22 **§ 8101.** Title.
- 23 This Chapter *shall* be known and may be cited as the “*Guam Cannabis Industry Act of 2019*.”
- 24 **§ 8102.** Definitions.
- 25 As used in this Chapter:

(a) *Board* means the Cannabis Control Board referenced in § 8109 of this Chapter.

(b) *Cannabis* means all parts of the plant of the genus *cannabis*,

4 whether growing or not, the seeds thereof, the resin extracted from any part
5 of the plant, and every compound, manufacture, salt, derivative, mixture, or
6 preparation of the plant, its seeds, or its resin, including cannabis or marijuana
7 concentrate. Cannabis *does not* include the mature stalks of the plant, fiber
8 produced from the stalks, oil, or cake made from the seeds of the plant,
9 sterilized seed of the plant which is incapable of germination, or the weight of
10 any other ingredient combined with marijuana to prepare topical or oral
11 administrations, food, drink, or other products.

19 (d) *Cannabis concentrate* means any cannabis product or subset of
20 cannabis produced by extracting cannabinoids from cannabis.

25 (f) *Cannabis establishment* means a cannabis cultivation facility,
26 cannabis testing facility, a cannabis product manufacturing facility, or a retail
27 cannabis store.

3 (h) *Cannabis-infused product* means any product that is comprised
4 of cannabis concentrate or cannabis plant material and other ingredients, and
5 is intended for use or consumption other than by smoking or vaporizing,
6 including ingestible cannabis-infused products, topical cannabis-infused
7 products, transdermal cannabis-infused products, and transmucosal cannabis-
8 infused products

3 (j) *Cannabis product category* means a defined group of cannabis
4 products that are in the same form. Cannabis flower, cannabis concentrates,
5 and cannabis-infused products are all cannabis product categories, though the
6 latter category may be further broken down into sub-categories such as
7 ingestible cannabis-infused products and non-ingestible cannabis-infused
8 products.

1 (1) *Cannabis testing facility* means an entity licensed to analyze and
2 certify the safety and potency of cannabis. Only a licensed cannabis testing
3 facility may collect and transport cannabis or cannabis samples to and from a
4 cannabis testing facility.

5 (5) *Consumer* means a person twenty-one (21) years of age or older
6 who purchases cannabis or marijuana products for personal use only, but *not*
7 for resale to others.

8 (8) *Consumption* means the act of ingesting, inhaling, or otherwise
9 introducing cannabis or marijuana into the human body, including through the
10 use of topicals, ointments, or tinctures.

11 (9) *Department* means the Guam Department of Revenue and
12 Taxation.

13 (10) *Ingestible cannabis-infused product* or *ingestible*, which is an
14 product that contains cannabis and at least one (1) other ingredient, is intended
15 for use or consumption other than by inhalation, is intended to be taken into
16 the body, and is one (1) of the following:

17 (1) *edible cannabis-infused product* or *edible*, which is an
18 ingestible cannabis-infused product that is intended to be taken by
19 mouth, swallowed, and is primarily absorbed through the
20 gastrointestinal tract. Edible cannabis-infused products may be
21 psychoactive when used as intended. Without limitation, edible
22 cannabis-infused products may be in the form of a food, beverage,
23 capsule, or tablet; or
24 (2) *transmucosal cannabis-infused product* or *transmucosal*,
25 which is an ingestible cannabis-infused product that is intended to be
26 placed in a body cavity and absorbed through the mucosal lining of that
27 cavity, and may be psychoactive when used as intended. Transmucosal

1 cannabis-infused products include, but are not limited to, cannabis-
2 infused tinctures, anal suppositories, lozenges, and nasal sprays.

3 (q) *Marijuana* means *cannabis* as defined in Subsection (b) of this
4 Section. For purposes of this Chapter, the terms marijuana and cannabis *shall*
5 carry the same meaning and *shall* be used interchangeably.

6 (r) *Non-ingestible cannabis-infused product* or *non-ingestible*
7 means a product that contains cannabis and at least one (1) other ingredient,
8 is intended for use or consumption other than by inhalation, is intended for
9 external use only, and is one (1) of the following:

10 (1) *topical cannabis-infused product* or *topical*, which is a
11 non-ingestible cannabis-infused product that produces a non-
12 psychoactive effect when used as intended. Topical cannabis-infused
13 products include, but are not limited to, cannabis-infused creams,
14 salves, bath soaks, and lotions; or
15 (2) *transdermal cannabis-infused product* or *transdermal*,
16 which is a non-ingestible cannabis-infused product that contains at least
17 one (1) skin-permeation-enhancing ingredient to facilitate absorption
18 through the skin into the bloodstream, and may be psychoactive when
19 used as intended. Transdermal cannabis-infused products include, but
20 are not limited to, cannabis-infused adhesive patches that are applied to
21 the skin surface.

22 (s) *Retail cannabis store* means an entity licensed to purchase
23 cannabis and to sell cannabis and cannabis products to consumers. Nothing
24 herein shall be construed to prohibit a licensed retail cannabis store to
25 purchase, sell, or transfer cannabis and cannabis products to another licensed
26 retail cannabis store.

§ 8103. Personal Use of Cannabis.

7 Notwithstanding any other provision of law, *except* as provided in this
8 Chapter, the following acts by persons twenty-one (21) years of age or older are
9 lawful and *shall not* be a criminal or civil offense under Guam law or be a basis for
0 seizure or forfeiture of assets under Guam law:

11 (a) possessing, using, displaying, purchasing, or transporting
12 cannabis accessories, one (1) ounce or less of cannabis, eight (8) grams or less
13 of cannabis concentrate, or any cannabis-infused products containing eight
14 hundred (800) mg or less of tetrahydrocannabinol;

15 (b) possessing, growing, processing, or transporting *no more than*
16 six (6) cannabis plants, with three (3) or fewer being mature flowering plants,
17 and possession of the cannabis produced by the plants on the premises where
18 the plants were grown; provided, that the growing takes place in an enclosed,
19 locked place, is not conducted openly or publicly, and is not made available
20 for sale;

21 (c) transferring one (1) ounce or less of cannabis and immature
22 cannabis plants; eight (8) grams or less of cannabis concentrate; or any
23 cannabis-infused products containing eight hundred (800) mg or less of
24 tetrahydrocannabinol to a person who is twenty-one (21) years of age or older
25 without remuneration;

- (d) consumption of cannabis, *except* that absent regulations otherwise promulgated by the Cannabis Control Board, nothing in this Chapter shall permit the consumption of marijuana in public; and
- (e) assisting another person who is twenty-one (21) years of age or older in any of the acts described in Subsections (a) through (d) of this Section if such assistance is provided for a non-commercial purpose.

(f) The provisions of this § 8103 *do not* apply to cannabis establishments as defined in this Chapter.

§ 8104. Restrictions on Personal Cultivation, Penalty.

112 (a) Cannabis cultivation for personal use may *only* occur inside a
113 private residence, inside an accessory structure to a private residence located
114 upon the grounds of a private residence, or within a fully enclosed, locked
115 outdoor space on the grounds of a private residence; provided, that:
116 (1) cultivation takes place within a closet, room, greenhouse,
117 or other fully enclosed area that is equipped with a lock or other security
118 device that allows access only to persons authorized to access the area;
119 and

20 (2) *no more than* six (6) plants are possessed, cultivated, or
21 processed at a single residence or upon the grounds of that residence, at
22 one (1) time;

23 (b) cannabis cultivation for personal use may *only* occur on property
24 lawfully possessed by the cultivator or with the consent of the person in lawful
25 possession of the property;

26 (c) cannabis plants *shall* be cultivated in a location where the plants
27 are *not* visible from any public location;

(d) a person who cultivates cannabis *shall* take reasonable precautions to ensure the plants are secure from unauthorized access; and

(e) a person who violates this Section while otherwise acting in compliance with § 8103(b) of this Chapter is guilty of a violation punishable by a fine of up to Five Hundred Dollars (\$500).

§ 8105. Public Consumption Banned, Penalty.

7 It is unlawful to consume cannabis openly and in public, unless otherwise
8 permitted by regulations duly promulgated and enacted by the Cannabis Control
9 Board. A person who violates this Section is guilty of a violation punishable by a
0 fine of up to One Hundred Dollars (\$100).

§ 8106. False Identification, Penalty.

6 (1) purchasing, attempting to purchase, or otherwise procuring or
7 attempting to procure cannabis or cannabis products; or
8 (2) gaining access or attempting to gain access to a cannabis
9 establishment.

(3) A person who violates this Section is guilty of a violation punishable by a fine of up to Five Hundred Dollars (\$500).

(b) A licensee, or his or her agent or employee, *shall not* sell, give, nor permit to be sold, given, or served any cannabis or cannabis products to any person

under twenty-one (21) years of age. For the purpose of preventing any violation of this Section, any licensee, or her or his agent or employee, may refuse to sell or serve cannabis or cannabis products to any person who is unable to produce adequate written evidence that she or he has reached the age of twenty-one (21) years. In any

1 criminal prosecution or proceeding for the suspension or revocation of any license
2 and based upon a violation of this Section, proof that the defendant licensee, or her
3 or his agent or employee, demanded and was shown, before furnishing any cannabis
4 or cannabis product to a minor, an identification card or other bona fide documentary
5 evidence of majority of such person *shall be a defense to such prosecution or*
6 *proceeding for the suspension or revocation of any license, unless it is demonstrated*
7 *that a reasonable person would have determined that the identification exhibited was*
8 *altered or did not accurately describe the person to whom the cannabis or cannabis*
9 *product was sold or served. Every person who violates this Section *shall* be guilty*
10 *of a petty misdemeanor.*

11 **§ 8107. Cannabis Accessories Authorized.**

12 Notwithstanding any other provision of law, it is lawful and *shall not be an*
13 *offense under Guam law or be a basis for seizure or forfeiture of assets for persons*
14 *twenty-one (21) years of age or older to manufacture, possess, or purchase cannabis*
15 *accessories, or to distribute or sell cannabis accessories to a person who is twenty-*
16 *one (21) years of age or older.*

17 **§ 8108. Lawful Operation of Cannabis-Related Facilities.**

18 (a) Notwithstanding any other provision of law, the following acts, when
19 performed by a retail cannabis store with a current, valid registration or a person
20 twenty-one (21) years of age or older who is acting in his or her capacity as an owner,
21 employee, or agent of a retail cannabis store, are lawful and *shall not be an offense*
22 under Guam law or be a basis for seizure or forfeiture of assets under Guam law:
23 (1) possessing, displaying, storing, or transporting cannabis,
24 cannabis products, or cannabis accessories, *except* that such items may *not be*
25 displayed in a manner that is visible to the general public from a public right-
26 of-way;

(2) delivering or transferring cannabis or cannabis products to a cannabis testing facility;

(3) receiving cannabis or cannabis products from a cannabis cultivation facility or cannabis product manufacturing facility;

(4) purchasing cannabis from a cannabis cultivation facility;

(5) purchasing cannabis or cannabis products from a cannabis product manufacturing facility; and

(6) delivering, distributing, or selling cannabis, cannabis products, or cannabis accessories to consumers.

(b) Notwithstanding any other provision of law, the following acts, when performed by a cannabis cultivation facility with a current, valid registration or a person twenty-one (21) years of age or older who is acting in his or her capacity as an owner, employee, or agent of a cannabis cultivation facility, are lawful and *shall not* be an offense under Guam law or be a basis for seizure or forfeiture of assets under Guam law:

(1) cultivating, harvesting, processing, packaging, transporting, displaying, storing, or possessing cannabis;

(2) delivering or transferring cannabis to a cannabis testing facility;

(3) delivering, distributing, or selling cannabis to a cannabis cultivation facility, a cannabis product manufacturing facility, or a retail cannabis store;

(4) receiving or purchasing cannabis from a cannabis cultivation facility; and

(5) receiving cannabis seeds or immature cannabis plants from a person twenty-one (21) years of age or older.

(c) Notwithstanding any other provision of law, the following acts, when performed by cannabis product manufacturing facility with a current, valid

1 registration or a person twenty-one (21) years of age or older who is acting in his or
2 her capacity as an owner, employee, or agent of a cannabis product manufacturing
3 facility, are lawful and *shall not* be an offense under Guam law or be a basis for
4 seizure or forfeiture of assets under Guam law:

- 5 (1) packaging, processing, transporting, manufacturing, displaying,
6 or possessing cannabis or cannabis products;
- 7 (2) delivering or transferring cannabis or cannabis products to a
8 cannabis testing facility; and
- 9 (3) delivering or selling cannabis or cannabis products to a person or
10 establishment authorized to possess, use, display, purchase, or transport
11 cannabis or cannabis products.
- 12 (d) Notwithstanding any other provision of law, possessing, cultivating,
13 processing, repackaging, storing, transporting, displaying, transferring, or delivering
14 cannabis, when performed by a cannabis testing facility with a current, valid
15 registration or a person twenty-one (21) years of age or older who is acting in his or
16 her capacity as an owner, employee or agent of a cannabis testing facility, are lawful
17 and *shall not* be an offense under Guam law or be a basis for seizure or forfeiture of
18 assets under Guam law.
- 19 (e) Notwithstanding any other provision of law, it is lawful and *shall not*
20 be an offense under Guam law or be a basis for seizure or forfeiture of assets under
21 Guam law to lease or otherwise allow the use of property owned, occupied, or
22 controlled by any person, corporation or other entity for any of the activities
23 conducted lawfully in accordance with Subsections (a) through (d) of this Section.
- 24 (f) Nothing in this Section prevents the imposition of penalties upon
25 cannabis establishments for violating this Chapter or rules adopted by the Cannabis
26 Control Board referenced in § 8109 of this Chapter.

27 **§ 8109. Cannabis Control Board.**

1 *I Liheslaturan Guåhan shall create a Cannabis Control Board which shall*
2 *assume the power, duties, and authority to promulgate rules and regulations*
3 *necessary to enforce this Chapter.*

4 **§ 8110. Rulemaking.**

5 (a) *No later than one (1) year after the effective date of this Act, the*
6 *Cannabis Control Board shall prescribe forms and adopt such rules and regulations*
7 *necessary for the implementation of this Chapter in accordance with Chapter 9 of*
8 *Title 5, Guam Code Annotated. Such regulations shall not prohibit the operation of*
9 *cannabis establishments either expressly or through regulations that make their*
10 *operation unreasonably impracticable. Such regulations shall include:*

11 (1) *procedures and grounds for the issuance, renewal, suspension,*
12 *denial, or revocation of a registration to operate a cannabis establishment;*

13 (2) *a schedule of application, registration, and renewal fees;*
14 *provided, that application fees shall not exceed Five Thousand Dollars*
15 *(\$5,000) with this upper limit adjusted annually for inflation, unless the*
16 *Cannabis Control Board determines a greater fee is necessary to carry out its*
17 *responsibilities under this Chapter;*

18 (3) *qualifications for registration that are directly and demonstrably*
19 *related to the operation of a cannabis establishment or security requirements*
20 *for cannabis establishments, including for the transportation and storage of*
21 *cannabis by cannabis establishments;*

22 (4) *requirements to prevent the sale or diversion of cannabis and*
23 *cannabis products to persons under the age of twenty-one (21);*

24 (5) *labeling and packaging requirements for cannabis and cannabis*
25 *products sold or distributed by a cannabis establishment;*

26 (6) *health and safety regulations and standards for the manufacture*
27 *of cannabis products and the cultivation of cannabis;*

1 (c) The Cannabis Control Board *shall* issue an annual registration to the
2 applicant within sixty (60) days after receiving an application, or thirty (30) days
3 after receiving a renewal application, *unless* the Cannabis Control Board finds that
4 the applicant is not in compliance with the regulations established pursuant to § 8110
5 of this Chapter.

10 (e) Every cannabis establishment registration *shall* specify the location
11 where the cannabis establishment will operate, and said location *shall* have defined
12 boundaries. A separate registration is required for each location at which a cannabis
13 establishment operates. The Cannabis Control Board may require reasonable
14 restrictions for the operation of a licensed cannabis establishment.

5 (f) Cannabis establishments, and books and records maintained and
6 created by cannabis establishments, are subject to inspection by the Cannabis
7 Control Board with reasonable notice to the owner or agent of the business.

§ 8112. Employers, Driving, Minors, and Control of Property.

19 (a) Nothing in this Chapter shall be construed or interpreted to amend,
20 repeal, affect, restrict, or preempt the rights and obligations of public and private
21 employers to maintain a drug and alcohol free workplace; require an employer to
22 permit or accommodate the use, consumption, possession, transfer, display,
23 transportation, sale, or growth of cannabis in the workplace; or affect the ability of
24 employers to have policies prohibiting the use of marijuana by employees and
25 prospective employees in the workplace.

8 (d) Nothing in this Chapter is intended to allow driving under the influence
9 of cannabis or to supersede laws related to driving under the influence of cannabis.

10 (e) Nothing in this Chapter is intended to permit the transfer of cannabis,
11 with or without remuneration, to a person under the age of twenty-one (21) years.

12 (f) Nothing in this Chapter shall prohibit a person, employer, school,
13 hospital, recreation, or youth center, correction facility, corporation, or any other
14 entity who occupies, owns, or controls private property from prohibiting or
15 otherwise regulating the possession, consumption, use, display, transfer,
16 distribution, sale, transportation, or growing of cannabis on or in that property.

§ 8113. Excise Tax on Cannabis.

18 (a) A Guam excise tax is imposed on the sale or transfer of cannabis from
19 a cannabis cultivation facility to a retail cannabis store or cannabis product
20 manufacturing facility. Every cannabis cultivation facility *shall* pay a Guam excise
21 tax at the rate of fifteen percent (15%) on the dollar value of cannabis that is sold or
22 transferred from a cannabis cultivation facility to a retail cannabis store or cannabis
23 product manufacturing facility. Provided further, that no such excise tax shall be
24 levied upon cannabis intended for sale as medical cannabis.

25 (b) The Department of Revenue and Taxation *shall* establish procedures
26 for the collection of all excise taxes levied.

- 1 (c) The Cannabis Control Board may exempt certain parts of the cannabis
2 plant from the excise tax described in Subsection (a), or may establish an alternate
3 rate or tax structure in accordance with the rules and regulations promulgated in
4 accordance with this Chapter.

1 recruiting or maintaining conservation officers and purchasing
2 equipment and detection devices.

3 **§ 8114. Monthly Statements and Payments.**

4 (a) Each cannabis cultivation facility *shall* send a statement by mail or
5 electronically to the Department on or before the last day of each calendar month.
6 The statement must contain an account of the amount of cannabis sold or transferred
7 to retail cannabis stores and cannabis product manufacturing facilities in Guam
8 during the preceding month, setting out:

9 (1) the total number of ounces, including fractional ounces sold or
10 transferred;
11 (2) the names and addresses of each buyer and transferee; and
12 (3) the weight of cannabis sold or transferred to the respective buyers
13 or transferees.

14 **§ 8115. Federal Law, Applicability.**

15 Nothing in this Chapter proposes or intends to require any individual or entity
16 to engage in any conduct that violates federal law, exempt any individual or entity
17 from any requirement of federal law, or pose any obstacle to federal enforcement of
18 federal law.

19 **§ 8116. Prior Duties, Penalties, and Proceedings.**

20 This Act does not affect rights and duties that matured, penalties that were
21 incurred, and proceedings that were begun before its effective date.

22 **§ 8117. Contracts.**

23 No contract shall be void or unenforceable on the basis that manufacturing,
24 distributing, dispensing, possessing, or using cannabis or marijuana products is
25 prohibited by federal law.

26 **§ 8118. Smoking of Cannabis Regulated.**

1 Smoking of cannabis products *shall* be regulated and enforced in accordance
2 with the requirements of Chapter 90 of Title 10, Guam Code Annotated, known as
3 the “Natasha Protection Act of 2005.”

4 **§ 8119. Unlawful Dissemination of Cannabis Odor.**

5 No person or business shall permit or cause the smoke or noxious odor from
6 cannabis cultivation or consumption to emanate from its point of generation onto
7 another real property that is not in its possession. Violations in this Section *shall be*
8 deemed a nuisance in accordance with Part 3 of Chapter 10, Title 20, Guam Code
9 Annotated and § 23101 of Chapter 23, Title 21, Guam Code Annotated. Violations
10 of this Section and the resulting penalties herein are in addition to other violations
11 and penalties of law.

12 **§ 8120. Baseline Data Study Prior to Enactment.**

13 Prior to enactment of the rules and regulations by the Cannabis Control Board,
14 the Office of the Governor, in collaboration with the Bureau of Statistics and Plans,
15 Department of Public Health and Social Services, Guam Behavioral Health and
16 Wellness Center, Guam Police Department, the Judiciary of Guam, and other
17 relevant government of Guam agencies, *shall conduct a baseline study which*
18 *consists of a collection of baseline data on cannabis use through population based*
19 *surveys before enactment, and baseline data measuring various public safety and*
20 *public health issues related to cannabis use in order to measure the impact of this*
21 *Act. This study *shall* be reviewed annually by the Cannabis Control Board and used*
22 *as a monitoring and comparison tool with public health and public safety data*
23 *relative to cannabis use going forward.*

24 **Section 3.** A new Chapter 9 is *added* to Title 11 of Guam Code Annotated,
25 to read:

26 **“CHAPTER 9**

27 **CANNABIS CONTROL BOARD**

1	§ 9101.	Short Title.
2	§ 9102.	Cannabis Control Board, Established.
3	§ 9103.	Appointment of Members; Term.
4	§ 9104.	Qualifications of Members.
5	§ 9105.	Meetings of Board; Quorum; Chairperson, Vice Chairperson.
6	§ 9106.	Staff Support.
7	§ 9107.	Duties of Board.
8	§ 9108.	Limitations on Board Jurisdiction.
9	§ 9109.	Cannabis Control Fund, Created.
10	§ 9101.	Short Title.
11		This Chapter <i>shall</i> be known as the “ <i>Cannabis Control Board Act of 2019.</i> ”
12	§ 9102.	Cannabis Control Board, Established.
13		There is hereby established a “Cannabis Control Board” (Board) within the
14		Department of Revenue and Taxation.
15	§ 9103.	Appointment of Members; Term.
16		The Board <i>shall</i> have a membership of nine (9) members who are appointed
17		by and serve at the pleasure of <i>I Maga'hågan Guåhan.</i>
18		(a) One (1) member <i>shall</i> be the Director of the Department of
19		Revenue and Taxation, or his or her designee;
20		(b) one (1) member <i>shall</i> be the Director of the Department of
21		Agriculture, or his or her designee;
22		(c) one (1) member <i>shall</i> be the Director of the Department of Public
23		Health and Social Services or his or her designee;
24		(d) one (1) member <i>shall</i> be the Director of the Guam Behavioral
25		Health and Wellness Center or his or her designee;
26		(e) one (1) member <i>shall</i> be the General Manager of the Guam
27		Visitors Bureau or his or her designee;

(f) one (1) member *shall* be the Chief of the Guam Police Department or his or her designee;

(g) one (1) member *shall* represent the Guam business community;

(h) two (2) members *shall* represent the general public, and *at least* one (1) member shall represent the business community.

one (1) member from the general public *shall* possess a medical cannabis card. Each member *shall* serve a term of four (4) years.

§ 9104. Qualifications of Members.

9 Each member *shall* be a citizen of the United States of America or a permanent
10 resident of Guam for at least one (1) year immediately preceding the appointment;
11 be at least twenty-one (21) years of age; not have been convicted of a crime, other
12 than traffic offenses, that involves moral turpitude; and, *must not* be an applicant for,
13 or hold a license to conduct any activities under the Board's supervision and
14 regulation.

15 § 9105. Meetings of Board; Quorum; Chairperson, Vice
16 Chairperson.

7 The Board *shall* meet at least monthly and may meet more frequently as its
8 duties require. A quorum *shall* consist of *at least* three (3) members being present
9 for the conduct of all official business. At its initial meeting, a quorum being present,
10 the members *shall* select their chairperson and vice chairperson.

§ 9106. Staff Support.

4 § 9107. Duties of Board.

5 The Board *shall* have all of the powers and duties specified in this Chapter,
6 and also the powers necessary or proper to enable it to carry out the purposes of this
7 Chapter and the purposes of the “Guam Cannabis Industry Act of 2019.” The

1 jurisdiction, supervision, powers and duties of the Board *shall* extend to any person
2 who buys, sells, produces, possesses, transports, or delivers any cannabis items
3 within Guam. The Board *shall* be responsible for:

- 4 (a) conducting hearings pertaining to any violation of this Chapter
5 or regulations promulgated hereby, including hearings for the purpose of
6 approving cannabis licenses and any other business allowed under this
7 Chapter;
- 8 (b) promulgating such rules and regulations, as may be necessary to
9 fulfill the intent, policies, and purposes of this Chapter, pursuant to the
10 Administrative Adjudication Law in Chapter 9 of Title 5, Guam Code
11 Annotated;
- 12 (c) levying fines and penalties for any violation of provisions of this
13 Chapter and the regulations promulgated by the Board;
- 14 (d) requiring and demanding access to, for the purposes of
15 inspecting, examining, photocopying, or auditing, all papers, books, and
16 records of a licensed cannabis business on its premises or elsewhere as
17 practical, including inspecting the gross income produced by a cannabis
18 establishment and verification of their income, and all other matters affecting
19 the enforcement of the Board's policy or as required pursuant to this Chapter;
- 20 (e) the types of licenses or permits to be covered by the cannabis
21 license and its structure, including onsite ingestion, application of topicals,
22 and smoking or vaping in a manner consistent with Chapter 90 of Title 10
23 GCA;
- 24 (f) regulating the testing, purchase, sale, production, processing,
25 transportation, and delivery of cannabis and cannabis products to be sold to
26 consumers by a retail cannabis store in accordance with the provisions of this
27 Chapter and the provisions of Chapter 8, Title 11 GCA;

(g) granting, refusing, suspending, or canceling licenses for the sale, processing, or production of cannabis items, or other licenses in regard to cannabis items, and to permit, in its discretion, the transfer of a license of any person;

(h) investigating and aiding in the prosecution of every violation of Guam law relating to cannabis items, and cooperating in the prosecution of offenders before the Superior Court of Guam;

- (i) adopting such regulations as are necessary and feasible for carrying out the intent and provisions of this Chapter and to amending or repealing such regulations;

- (j) exercising all powers incidental, convenient or necessary to enable it to administer or carry out the provisions of this Chapter, and the provisions of Chapter 8 Title 11 GCA;

(k) regulating and prohibiting any advertising by manufacturers, processors, wholesalers or retailers of cannabis items by newspapers, letters, billboards, radio, television or other media;

- (1) regulating the use of cannabis items for scientific, pharmaceutical, manufacturing, mechanical, industrial, and other purposes;
- (m) adopting separate regulations as are necessary and feasible for the public display and use of cannabis items at exhibitions promoting cannabis as an alternative to pharmaceuticals;

(n) adopting separate regulations as are necessary and feasible for the development of a hemp program for strains of cannabis that exceed three tenths percent (0.3%) on a dry weight basis of any part of the cannabis plant, or per volume or weight of cannabis product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the cannabis plant regardless of moisture content;

(q) prescribing forms and adopting such rules and regulations as the Board deems necessary for the implementation and administration of this Chapter *no later than one (1) calendar year after the effective date of this Act.*

§ 9108. Limitations on Board Jurisdiction.

The Board *shall not* regulate the personal cultivation of cannabis as may be allowed by Guam law. The Board has no power to purchase, own, sell, or possess any cannabis items.

§ 9109. Cannabis Control Fund. Created.

9 There is hereby created, separate and apart from all other funds of the
10 government of Guam, the Cannabis Control Fund (Fund). All fees, fines, penalties
11 and other charges resulting from the licensing and enforcement of adult cannabis use
12 on Guam *shall* be deposited in this Fund. Expenditures of the Fund *shall* be by
13 appropriation from *I Liheslaturan Guåhan*, except that sixty percent (60%) of all
14 funds *shall* be appropriated to the Guam Behavioral Health and Wellness Center for
15 the following purposes:

16 (a) twenty percent (20%) *shall* be used for cannabis prevention and
17 education programs for those under twenty-one (21) years of age; and
18 (b) forty percent (40%) *shall* be used for substance abuse, treatment,
19 prevention and education programs.

§ 9110. Licensing Prohibition for Establishments Near Schools.

21 The Board *shall not* issue a license for a cannabis establishment located within
22 a distance of one thousand (1,000) feet from any public or private school and other
23 places or facilities where youth generally congregate, which include childcare
24 centers, public playgrounds, and parks. The measurements *shall* be taken in a
25 straight line from the center of the nearest entrance to the building of such school or
26 place or facility stated herein to the center of the nearest entrance of the cannabis
27 establishment for which a license is applied. The provisions of this Section *shall not*

1 prohibit the renewal of any valid license previously issued and in effect at the time
2 of a subsequent construction or establishment of a school or place or facility stated
3 herein within five hundred (500) feet of such licensed cannabis establishment, and
4 provided that the premises of such licensed cannabis establishment *shall not*
5 subsequently be added to or enlarged.”

6 **Section 4.** §§ (c)(23) and (c)(31) of Appendix A, Chapter 67, Title 9, Guam
7 Code Annotated, are *repealed* and marijuana is hereby declassified as a Schedule 1
8 Controlled Substance. Any reference by the Guam Uniform Controlled Substances
9 Act to marijuana, such as “marijuana,” “tetrahydronannabinol,” “cannabis,” and
10 derivatives thereof, *shall* be deemed repealed, null, and void upon the passage of this
11 Act.

12 **Section 5.** § 67.401.2(b) of Article 4, Chapter 67, Title 9, Guam Code
13 Annotated, is *amended* to read:

14 “(b) Any person who violates Subsection (a) with respect to any
15 controlled substance *shall* be guilty of a felony of the third degree.”

16 **Section 6.** § 67.401.4(f) of Article 4, Chapter 67, Title 9, Guam Code
17 Annotated, is *amended* to read:

18 “(f) If he is guilty of an offense involving a controlled substance
19 listed in Schedule I or II of this Act which is not a narcotic drug or a controlled
20 substance in Schedule III of this Act and if he has been convicted of one (1)
21 or more prior offenses punishable under the provisions of Subsection (e) of
22 this Section, a felony under any provision of this Act, any law of the United
23 States, a state or foreign jurisdiction relating to narcotic drugs or depressant
24 or stimulant substances and one (1) or more of the convictions are final, he
25 *shall* be sentenced to a term of imprisonment of not more than ten (10) years
26 and, in addition, may be fined not more than Thirty Thousand Dollars

1 (\$30,000.00). The sentence *shall* include a special parole term of at least two
2 (2) years in addition to such term of imprisonment.”

3 **Section 7.** § 67.401.4(h) of Article 4, Chapter 67, Title 9, Guam Code
4 Annotated, is *amended* to read:

5 “(h) If he is guilty of an offense involving a controlled substance
6 listed in Schedule IV of this Act and if he has been convicted of a felony under
7 a provision of this Act; or a law of the United States, a state or foreign
8 jurisdiction relating to narcotic drugs or depressant or stimulant substances,
9 and such convictions are final, then he *shall* be sentenced to a term of
10 imprisonment of not more than six (6) years and, in addition, may be fined not
11 more than Twenty Thousand Dollars (\$20,000.00). The sentence *shall* include
12 a special parole term of at least two (2) years in addition to such term of
13 imprisonment. Imposition or execution of such sentence *shall not* be
14 suspended and probation *shall not* be granted.”

15 **Section 8.** § 67.401.4(j) of Article 4, Chapter 67, Title 9, Guam Code
16 Annotated, is *amended* to read:

17 “(j) If he is guilty of an offense involving a controlled substance
18 listed in Schedule V of this Act and if he has been convicted of a felony under
19 a provision of this Act, or a law of the United States, a state or foreign
20 jurisdiction relating to narcotic drugs or depressant or stimulant substances,
21 and such convictions are final, then he *shall* be sentenced to a term of
22 imprisonment of not more than two (2) years or a fine of not more than Ten
23 Thousand Dollars (\$10,000.00), or both. Imposition or execution of such
24 sentence *shall not* be suspended and probation *shall not* be granted.”

25 **Section 9.** § 67.401.4(k) of Article 4, Chapter 67, Title 9, Guam Code
26 Annotated, is hereby *repealed*.

1 **Section 10.** § 67.401.5 of Article 4, Chapter 67, Title 9, Guam Code
2 Annotated, is *amended* to read:

3 **“§ 67.401.5. Fines for Drug Offenses.**

4 Any person who is guilty of an offense pursuant to § 67.402(a) of this
5 Act may, in addition to imprisonment for felony of the third degree, be fined
6 not more than Twenty-five Thousand Dollars (\$25,000.00), except that if any
7 person commits such offense after previously being convicted of one (1) or
8 more prior offenses involving § 67.402(a) of this Act, or for a felony under
9 any other provision of this Act or other law of the United States, state or
10 foreign jurisdiction relating to narcotic drugs or depressant or stimulant
11 substances, and one (1) or more of the convictions have become final, such
12 person may, in addition to imprisonment for felony of the third degree, be
13 fined not more than Fifty Thousand Dollars (\$50,000.00).”

14 **Section 11.** § 67.401.6 of Article 4, Chapter 67, Title 9, Guam Code
15 Annotated, is *amended* to read:

16 **“§ 67.401.6. Additional Fines for Drug Offenses.**

17 Any person who is guilty of an offense pursuant to § 67.403(a) of this
18 Act may, in addition to imprisonment for felony of the third degree, be fined
19 not more than Thirty Thousand Dollars (\$30,000.00); except, that if any
20 person commits such offense after previously being convicted of one (1) or
21 more offenses pursuant to § 67.403(a) of this Act or for any felony under any
22 other provision of this Act or other law of the United States, state or foreign
23 jurisdiction relating to narcotic drugs or depressant or stimulant substances,
24 and one (1) or more of the convictions have become final, such person *shall*
25 be sentenced to a term of imprisonment of not more than eight (8) years and,
26 in addition, may be fined not more than Sixty Thousand Dollars
27 (\$60,000.00).”

1 **Section 12.** § 67.411(b) of Article 4, Chapter 67, Title 9, Guam Code
2 Annotated, is *amended* to read:

3 “(b) For purposes of this Section, a person *shall* be considered
4 convicted of a second or subsequent offense if, prior to the commission of
5 such offense, he was convicted of one (1) or more felonies under any provision
6 of this Act or law of the United States, a state or foreign jurisdiction relating
7 to narcotic drugs or depressant or stimulant drugs.”

8 **Section 13.** § 67.412(a) of Article 4, Chapter 67, Title 9, Guam Code
9 Annotated, is *amended* to read:

10 “(a) Whenever any person who has not previously been convicted of
11 an offense under this Act or under any statute of the United States or of any
12 state relating to narcotic drugs or stimulant, depressant or hallucinogenic
13 drugs, pleads guilty to or is found guilty of possession of a controlled
14 substance under § 67.401.2(a), the Court, without entering a judgment of guilt
15 and with the consent of the accused, may defer further proceedings and place
16 him on probation upon terms and conditions. Upon violation of a term or
17 condition, the Court may enter an adjudication of guilty and proceed as
18 otherwise provided. Upon fulfillment of the terms and conditions, the Court
19 *shall* discharge such person and dismiss the proceedings against him.
20 Discharge and dismissal under this Section *shall* be without Court
21 adjudication of guilt and *shall not* be deemed a conviction for purposes of
22 disqualifications or disabilities imposed by law upon conviction of a crime.
23 Discharge and dismissal under this Section may occur only once with respect
24 to any person.”

25 **Section 14.** A new § 70.44.4 is *added* to Article 1, Chapter 70, Title 9, Guam
26 Code Annotated, to read:

1 **“§ 70.44.4. Possession of cannabis by persons under twenty-one**

2 **(21) years of age.** Any person under twenty-one (21) years of age possessing
3 cannabis *shall* be guilty of a petty misdemeanor and subject to a One Hundred
4 Dollar (\$100.00) fine and suspension of their driver's license for twelve (12)
5 months for the first offense and a Two Hundred-Fifty Dollar (\$250.00) fine
6 and suspension of their driver's license for an additional twelve (12) months
7 for each subsequent possession. Suspension of one's driver's license *may* be
8 waived by the court and replaced with 100 hours of community service for
9 each possession if the guilty individual can demonstrate financial or personal
10 hardship resulting from the loss of his or her driving privileges. The violation
11 of this Section and the resulting penalties prescribed herein are in addition to
12 other violations of public law related to cannabis possession.”

13 **Section 15. § 70.53 of Article 3, Chapter 70, Title 9, Guam Code Annotated,**
14 is *amended* to read:

15 **“§ 70.53. Intoxication of Persons Under the Age of Twenty-One.**

16 (a) No person twenty-one (21) years or older *shall* knowingly give
17 or otherwise make available any alcoholic beverage or cannabis to a person
18 under the age of twenty-one (21) years. A person violates this Section who
19 gives or otherwise makes available an alcoholic beverage or cannabis to a
20 person under the age of twenty-one (21) with the knowledge that the person
21 to whom the alcoholic beverage or cannabis is made available will violate this
22 § 70.53.

23 (b) A person violates this Section who owns, occupies, or controls
24 premises on which alcoholic beverages or cannabis are consumed by any
25 person under twenty-one (21) years of age, and who knows of alcohol or
26 cannabis consumption by persons under twenty-one (21) years of age on such

premises, and who reasonably could have prohibited or prevented such alcohol or cannabis consumption.

(c) Any person who violates this Section:

(1) *shall* be punished by a fine of not more than Two Thousand Dollars (\$2,000) or by imprisonment for not more than one

(2) in addition to the sentence referenced in Subsection (c)(1) the court *may* require the violator to make restitution for any damages to property or a person caused by a violation of this § 70.53, and *may* require participation in volunteer service to a community service agency.

(d) The prohibitions of this Section apply only to a person who is present and in control of the location at the time the consumption occurs. The prohibitions of this Section do not apply to the owner of rental property, or the agent of an owner of rental property, unless the consumption occurs in the individual unit in which the owner or agent resides.

(e) This Section *shall not* apply to any religious practice, observance, or ceremony.

(f) The violations of this Section and the resulting penalties prescribed herein, *supra*, are in addition to other violations of public law related to alcoholic beverages or cannabis."

Section 16. Nothing in this Act shall be construed or interpreted to amend, repeal, affect, restrict, or preempt laws pertaining to Guam Public Laws 32-237, 34-125, 34-165, or any other existing statute or public law relative to medical cannabis

Section 17. Independent Economic Impact Study.

26 (a) Not less than ninety (90) days from the effective date of this Act, the
27 Guam Visitors Bureau (GVB) *shall* issue a Request for Proposal for the purpose of

1 conducting an Independent Economic Impact Study (IEIS) relative to the
2 legalization of cannabis for adult use in Guam. GVB is authorized to expend funds
3 from the Tourism Attraction Fund to fund the IEIS. GVB, in collaboration with the
4 Guam Economic Development Authority and the University of Guam, *shall*
5 determine the study's parameters.

6 (b) The Independent Economic Impact Study *shall* be completed by an
7 identified group that includes an economist who holds a Doctor of Philosophy or
8 Master's Degree in Economics from an institution of higher learning accredited by
9 an accreditation agency recognized by the U.S. Secretary of Education or an
10 accrediting body that is recognized internationally. This IEIS *shall* be transmitted
11 to the Speaker of *Lihiesturan Guåhan* no later than one (1) year from the effective
12 date of this Act.

13 **Section 18. Severability.** If any provision of this Act or its application to any
14 person or circumstance is found to be invalid or contrary to law, such invalidity *shall*
15 *not* affect other provisions or applications of this Act that can be given effect without
16 the invalid provision or application, and to this end the provisions of this Act are
17 severable.

18 **Section 19. Effective Date.** This Act *shall* be effective upon enactment.